

REMARKS

I. Status Summary

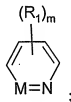
Claims 1-43 are pending in the present application. Claims 2-15 and 30-43 have been withdrawn as being directed to non-elected subject matter. Claims 16-21, 23, and 25 have been rejected by the U.S. Patent and Trademark Office (hereinafter the "Patent Office"). Claims 1, 22, 24, and 26-29 have been objected to.

The specification has been amended. Claims 1, 16, 18, 20, 23, and 25 have been amended. Claims 17 and 19 have been canceled. Support for the amendments can be found throughout the specification and claims as filed. No new matter has been added.

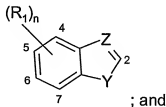
Reconsideration of the application as amended and further in view of the remarks set forth herein below is respectfully requested.

II. Election/Restrictions

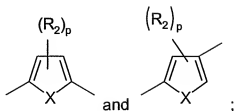
The Patent Office has acknowledged applicants' election of Group (IV). The Patent Office has further noted that the subject matter examined in Group (IV) includes methods of using compounds of Formula (I) where Ar₁ is:



Ar₂ is:



L is one of the five-membered rings, i.e.,:



where X is S; M and N are each CH; Z is N, and Y is NR₃.

III. Specification

The specification has been amended herein to reference a prior related application, i.e., PCT International Patent Application Serial No. PCT/US05/07316. No new matter has been added.

IV. Rejections under 35 U.S.C. § 112, Second Paragraph

Claims 16-21, 23, and 25 have been rejected under 35 U.S.C. § 112, second paragraph, as allegedly being indefinite. More particularly, the Patent Office contends that in claim 16, the use of "comprises" in the phrase "the compound of Formula (I) comprises a compound of Formula (IV)" is improper. The Patent Office further contends that the phrase "each comprise" in claim 20 and the phrase "pharmaceutically acceptable salt comprises" in claim 25 are improper. In addition, the Patent Office alleges that claim 23 lacks antecedent basis in claim 1.

After careful consideration of the rejection and of the Patent Office's comments, applicants respectfully traverse the rejection and offer the following remarks.

Initially, applicants respectfully submit that claims 17 and 19 have been canceled, thereby rendering the rejection with regard to claims 17 and 19 moot.

Applicants respectfully submit that claim 16 has been amended herein to recite "wherein the compound of Formula (I) is a compound of Formula (IV)." Claim 16 has also been amended to recite that M and N are each CH; Z is N; Y is NR₃; and X is S. Support for the amendment can be found in claim 16 as originally filed.

Claim 18 has been amended for clarity to recite that Y is NH. Support for the amendment can be found in claim 18 as originally filed.

Claim 20 has been amended to recite "wherein A₁ and A₂ are each." Support for the amendment can be found in claim 20 as originally filed.

Claim 23 has been amended to recite "the compound of Formula (I) is a prodrug." Support for the amendment can be found in claim 23 as originally filed.

Claim 25 has been amended to recite "the pharmaceutically acceptable salt is." Support for the amendment can be found in claim 25 as originally filed.

In view of the amendments to claims 16, 20 and 25, applicants respectfully submit that the Patent Office remarks with regard to the use of "comprises" have been addressed.

Applicants respectfully disagree with the Patent Office's contention that claim 23, which recites "wherein the compound of Formula (I) is a prodrug," lacks antecedent basis. Applicants respectfully submit that the failure to provide explicit antecedent basis for terms does not always render a claim indefinite. See Manual of Patent Examining Procedure (hereinafter "MPEP") § 2173.05(e). If the scope of a claim would be reasonably ascertainable by those skilled in the art, the claim is not indefinite. Id., citing *>Energizer Holdings Inc. v. Int'l Trade Comm'n*, 435 F.3d 1366, 77 USPQ2d 1625 (Fed Cir. 2006); *< Ex parte Porter*, 25 USPQ2d 1144, 1145 (Bd. Pat. App. & Inter. 1992). With regard to claim 23, applicants respectfully submit that one of skill in the art would understand that some of the compounds encompassed by independent claim 1 are prodrugs. For example, the compounds of Formula (I) recited in claim 1 wherein R₅ is hydroxyl, alkoxy, and acyloxy are prodrugs. Applicants respectfully submit that the instant specification as originally filed provides teachings with regard to prodrugs. See Instant Specification, page 33, lines 2-23. In particular, the specification notes that amidine prodrugs include N-hydroxylated amidines and N-alkoxylated amidines. See Instant Specification, page 33, lines 19-21.

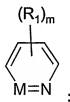
Accordingly, applicants respectfully submit that claims 16, 18, 20, 21, 23, and 25 meet the requirements of 35 U.S.C. § 112, second paragraph. Therefore, applicants respectfully request that the rejection of claims 16, 18, 20, 21, 23, and 25 under 35 U.S.C. § 112, second paragraph, be withdrawn and further ask that claims 16, 18, 20, 21, 23, and 25 be allowed at this time.

V. Claim Objections and Allowable Subject Matter

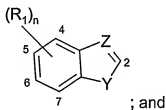
Claims 1, 22, 24, and 26-29 have been objected to for containing subject matter outside the scope of elected Group IV. The Patent Office has indicated that claim 1 if presented directed solely to elected Group IV appears to be allowable over the art of record.

Applicants gratefully acknowledge the Patent Office's indication regarding the potential allowability of claim 1.

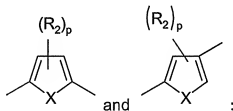
Applicants respectfully submit that claim 1 has been amended herein without prejudice to delete subject matter not pertaining directly to the elected subject matter. More particularly, claim 1 has been amended to recite that Ar_1 is:



Ar_2 is:



L is selected from



where Ar_2 is attached to L through a bond at carbon 2; X is S; M and N are each CH; Z is N, and Y is NR_3 . Support for the amendment can be found in claim 1 as originally filed.

Accordingly, applicants respectfully submit that the Patent Office's objection with regard to claim 1 has been addressed and believe that claim 1 is in condition for allowance.

Each of claims 22, 24, and 26-29 depend from claim 1 and therefore include each and every element of claim 1. Thus, applicants respectfully believe that claims 22, 24, and 26-29 are also in condition for allowance. A Notice of Allowance with regard to claims 1, 22, 24, and 26-29 is respectfully requested.

Applicants enclose herewith a Supplemental Declaration containing the original signature of inventor, Chad E. Stephens.

CONCLUSIONS

Should there be any minor issues outstanding in this matter, the Examiner is respectfully requested to telephone the undersigned attorney. Early passage of the subject application to issue is earnestly solicited.

DEPOSIT ACCOUNT

The Commissioner is hereby authorized to charge any fees associated with the filing of this correspondence to Deposit Account Number 50-0426.

Respectfully submitted,

JENKINS, WILSON, TAYLOR & HUNT, P.A.

Date: 10/14/2010

By: 

Arles A. Taylor, Jr.
Registration No. 39,395
Customer No. 25297
(919) 493-8000

1523/2 PCT/US

AAT/ALO/cam

Enclosure